



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

The following regulations represent an electronic facsimile of Kansas Administrative Regulations, promulgated by the Kansas Department of Health and Environment and published by the Kansas Secretary of State. While every effort has been made to assure the accuracy, these electronic copies do not represent the official regulations of the state. The official regulations are the bound copies printed by the Secretary of State.

Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

that will be used in monitoring the proposed well or well system for which application is being made; and

(5) A procedure for plugging the well or wells upon final abandonment of the storage cavity.

(b) For existing projects that have an operational plan on file with the department, only the requirements of paragraphs (1) and (4) of subsection (a) shall be submitted with an application for permit for a new well. The requirements of paragraphs (2), (3), and (5) of subsection (a) shall be submitted for approval when any change in operating procedures is proposed.

(c) Within 20 days after receipt of the proposed plan modification, the secretary shall, in writing, approve the plan as amended, or require such modifications as the secretary deems necessary in order to assure that changes in operation will not cause surface or subsurface water pollution or soil pollution. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-171d; effective May 1, 1981; amended May 1, 1984.)

28-45-10. Waiver of specific requirements. The secretary may grant an exception to one (1) or more requirements provided in these regulations, if the applicant or operator can show good cause for the granting of such an exception, and presents an alternative to the requirement or requirements which will insure that the objectives of these regulations will be achieved. Requests for an exception shall be made, in writing, to the secretary. The secretary shall grant or deny the request within fifteen (15) days of the receipt thereof and shall notify the person requesting the exception, in writing, of the decision. If the request is denied, the secretary will specify in the notice the reasons for the denial of the request. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1981.)

28-45-11. Hydrocarbon storage wells and well systems; fees. An annual fee of \$1,200 for permitting, monitoring and inspecting hydrocarbon storage wells and well systems shall be paid by each person, firm, association or corporation operating underground hydrocarbon storage facilities in bedded salt deposits. The fee shall be paid by April 1 of each year. Any person, firm, association or corporation who fails to pay the amount due by April 1 shall be subject to permit revocation. (Authorized by and implementing K.S.A 1984 Supp. 65-171d; effective, T-85-7, Feb.

15, 1984; effective May 1, 1984; amended May 1, 1985.)

Article 46.—UNDERGROUND INJECTION CONTROL REGULATIONS

28-46-1. General provisions. (a) Any reference in these rules and regulations to standards, procedures, or requirements of 40 CFR Parts 124, 136, 144, 145, 146 or 261, shall constitute a full adoption by reference of the part, subpart and paragraph so referenced, including any notes, charts and appendices, unless otherwise specifically stated in these rules and regulations. The materials referenced are available at the Kansas department of health and environment, Topeka, Kansas.

(b) When used in any provision adopted from 40 CFR Parts 124, 136, 144, 145, 146 or 261, references to “the United States” shall mean the state of Kansas, “environmental protection agency” shall mean the Kansas department of health and environment, and “administrator,” “regional administrator,” or “director” shall mean the secretary of the department of health and environment.

(c) When existing Kansas statutory and regulatory authority is more stringent than the regulations adopted in subsection (a), the Kansas requirements shall prevail. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-2. Definitions. (a) 40 CFR 124.2; 40 CFR 144.3, 40 CFR 144.61, 40 CFR 146.3, and 40 CFR 146.61(b), as in effect on April 1, 1993, are adopted by reference.

(b) “Cone of impression” means the mound in the potentiometric surface of the receiving formation in the vicinity of the injection well.

(c) “Cone of influence” means that area around the well within which increased injection pressures caused by injection into the well would be sufficient to drive fluids into an underground source of drinking water (USDW).

(d) “Fracture pressure” means that wellhead pressure which may cause vertical or horizontal fracturing of rock along a well bore.

(e) “Injection well” means a well into which fluids are being injected.

(f) “Injection well facility” means all land, structures, appurtenances or improvements on

which one or more injection wells are located, and that are within the same well field or project.

(g) "Major facility" means, in lieu of the definition in 40 CFR 124.2 and 144.3, a facility capable of producing hazardous waste identified or listed by the secretary under K.A.R. 28-31-3.

(h) "Major permit" means a permit for the underground injection of wastes produced by or stored on a major facility.

(i) "Maximum allowable injection pressure" means the maximum wellhead pressure not to be exceeded as a permit condition, as opposed to fracture pressure.

(j) "Secretary" means the secretary of the Kansas department of health and environment or duly authorized designee. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-3. Classification of injection wells. 40 CFR 144.6 and 40 CFR 146.5, as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-4. Injection of hazardous or radioactive wastes into or above an underground source of drinking water. Injection of hazardous or radioactive wastes into or above an underground source of drinking water shall be prohibited. Any similar injection taking place before the effective date of these rules and regulations shall be stopped immediately on the effective date of these rules and regulations. The secretary may issue such orders or take such actions as may be appropriate to enforce the provisions of this section. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-5. Application for injection well permits. 40 CFR 124.3 and 40 CFR 144.31, as in effect on April 1, 1993, are adopted by reference. In addition, the provisions of K.S.A. 65-3437, which relate to hazardous waste injection wells shall be applicable to class I hazardous waste injection wells. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended,

T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-6. Conditions applicable to all permits. 40 CFR 144.51(a) through (p), as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-7. Draft permits. 40 CFR 124.6, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-8. Fact sheets. 40 CFR 124.8, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-9. Establishing permit conditions. 40 CFR 144.52, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-10. Term of permits. (a) Class I and class V permits shall be effective for a fixed term not to exceed 10 years.

(b) Class III permits shall be issued for a period up to the operating life of the facility.

(c) Each permit shall be reviewed at least once every five years to determine whether it should be modified, revoked and reissued, or terminated, with the exception of permits for class I hazardous waste injection wells which shall be reviewed at least annually to determine whether they should be modified, revoked and reissued, or terminated.

(d) Modification of permits shall not include extension of the maximum duration specified in subsection (a). At the end of the permit term, application shall be filed for a new permit. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19,

1985; amended May 1, 1986; amended May 1, 1987; amended March 21, 1994.)

28-46-11. **Schedules of compliance.** 40 CFR 144.53, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-12. **Requirements for recording and reporting of monitoring results.** 40 CFR 144.54, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-13. **Effect of a permit.** 40 CFR 144.35, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-14. **Transfer of permits.** 40 CFR 144.38, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-15. **Modification or revocation and reissuance of permits.** 40 CFR 124.5 and 40 CFR 144.39, as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-16. **Termination of permits.** 40 CFR 144.40, as in effect on April 1, 1993, is adopted by reference. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-165; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-17. **Minor modifications of permits.** 40 CFR 144.41, as in effect on April 1, 1993,

is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-18. **Area permits.** 40 CFR 144.33, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-19. **Emergency permits.** 40 CFR 144.34, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-20. **Corrective action.** 40 CFR 144.55, 40 CFR 146.7 and 40 CFR 146.64, as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-21. **Public notice of permit actions and public comment period; public comments and requests for public hearings; public hearings; response to comments.** (a) 40 CFR 124.10 through 40 CFR 124.12; and 40 CFR 124.17, as in effect on April 1, 1993, are adopted by reference.

(b) Any provisions of Kansas law which provide additional opportunity for public comment or public hearing shall supersede the provisions of the federal regulations. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-22. **Signatories to permit applications and reports.** 40 CFR 144.32, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-23. **Claims of confidentiality.** (a) Applicants for injection permits may claim confidentiality of information to protect trade secrets. These claims shall be submitted in writing at the time application is made for a permit. Upon agreement between the applicant and the secretary, the confidential information shall be stamped "confidential", and the documents shall not be released to the public by the secretary without the prior written consent of the applicant, to the extent provided by law.

(b) Claims of confidentiality shall not apply to release of confidential materials to governmental agencies with responsibilities in water pollution control or to the release of that material due to a court order.

(c) Prohibition of confidentiality. Claims of confidentiality shall not include the name and address of the applicant or permittee or information dealing with the existence, absence, or level of contaminants in drinking water. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-24. **Requirements for wells injecting hazardous wastes.** 40 CFR 144.14, as in effect on April 1, 1993, is adopted by reference. In addition to 40 CFR 144.14, the following requirements shall be applicable to class I hazardous waste injection wells.

(a) Liability coverage and long-term assurances. Insurance requirements, closure and post-closure requirements, and financial requirements shall be met by compliance with K.A.R. 28-31-8(a). Higher amounts for insurance, bonds or their equivalent may be required by the secretary.

(b) Injection fluids received from multiple generators. Hazardous waste injection wells shall be subject to the requirements in K.A.R. 28-31-8(d).

(c) Disclosure statement. Each applicant shall be subject to the requirements in K.A.R. 28-31-9(c).

(d) Monitoring fees. The monitoring fee schedule shall be as specified in K.A.R. 28-31-10(c).

(e) Pretreatment requirements. Prior to hazardous waste injection, the fluids shall meet minimum pretreatment requirements that are set by the secretary. To the extent feasible, pretreatment shall render the injected fluid compatible with the

injection well tubing and casing and with the disposal formation. In setting minimum pretreatment requirements, the secretary shall consider values 100 times greater than the applicable drinking water standards and values 100 times greater than the applicable 10^{-5} cancer risk levels, or other values necessary to prevent contamination of underground drinking water supplies, to protect the public health, and to take into account environmental considerations. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-25. **Prohibition of unauthorized injection.** Injection wells shall not be constructed, and underground injection shall not take place, unless authorized by permit, or by rule as provided in K.A.R. 28-46-26. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-26. **Authorization to continue to inject into class V wells.** A class V injection well shall be authorized to operate until regulations concerning that class of injection wells are adopted provided the requirements of 40 CFR 144.12, as in effect on April 1, 1993, are satisfied. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-27. **Prohibition of movement of fluid into underground sources of drinking water.** 40 CFR 144.12, as in effect April 1, 1993, is adopted by reference. (Authorized by and implementing, K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-28. **Establishing maximum injection pressure.** (a) A maximum allowable injection pressure for each injection well shall be established by the secretary as a permit condition.

(b)(1) All class I wells operating on other than gravity flow shall be prohibited.

(2) In the case of gravity flow, the positive well-head pressure for a class I well shall not exceed 35 pounds per square inch gauge.

(c) For all wells, the maximum operating pressure shall not be allowed to exceed fracture pressure, except during the development of fractures for well stimulation operations, or during the development of solution-mined wells as defined in K.A.R. 28-43-2(c). (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-29. Construction requirements. 40 CFR 146.12 and 40 CFR 146.65, governing class I wells; and 40 CFR 146.32, governing class III wells, as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-30. Operating, monitoring and reporting requirements. 40 CFR 146.13, 40 CFR 146.67, 40 CFR 146.68 and 40 CFR 146.69, regulating class I wells and 40 CFR 146.33, regulating class III wells, as in effect on April 1, 1993, are adopted by reference. In addition to 40 CFR 144.14 and 40 CFR 146.70, the following requirements are applicable to each class I hazardous waste injection well. (a) Records of the continuously monitored parameters shall be maintained in addition to the monthly average, minimum and maximum values of the following parameters:

- (1) injection pressure;
- (2) flow rate;
- (3) injection volume; and
- (4) annular pressure.

(b) Monitoring results shall be reported to the department on a monthly basis.

(c) The necessary number of monitoring wells in appropriate geologic zones for early detection of contaminant migration shall be determined by the secretary. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-31. Information to be considered by the secretary. 40 CFR 146.14, 40 CFR 146.62, 40 CFR 146.66, 40 CFR 146.70 and 40 CFR Part 144 Subpart F, for class I wells and 40 CFR 146.34, for class III wells, as in effect on April 1, 1993, are adopted by reference. In addition to 40 CFR 146.14, 40 CFR 146.62, 40 CFR

146.66, 40 CFR 146.70 and 40 CFR Part 144 Subpart F, the following shall be applicable to class I hazardous waste injection wells:

(a) The provisions of K.S.A. 65-3439, as it relates to hazardous waste injection wells shall be applicable to class I hazardous waste injection wells.

(b) Each applicant shall be responsible for providing all available information necessary for the secretary to determine that well injection of the hazardous waste liquid in question is the most reasonable method of disposal after all other options have been considered.

(1) Factors to be considered in determining the most reasonable method shall include those set forth in K.S.A. 65-3439(d).

(2) All factors considered shall be documented in a detailed report in the format required by the secretary.

(c) The location of each abandoned oil and gas well and exploratory hole within the area of review shall be determined through a detailed record search and field survey.

(1) An interview with those responsible for drilling, producing, plugging, or witnessing the activities shall be a part of the record.

(2) The results of the survey shall be documented in a report in the format required by the secretary.

(3) A map geographically documenting the location of all the holes and abandoned wells within the area of review shall be included as a part of the report. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-32. Area of review. (a) The area of review for each class I hazardous waste injection well shall be no less than 2½ miles or shall extend to the limits of the calculated cone of influence, whichever is greater.

(b) The area of review for each class I non-hazardous waste injection well shall be no less than one mile or shall extend to the limits of the calculated cone of influence, whichever is greater.

(c) The area of review for each class III injection well shall be no less than ¼ mile.

(d) The area of review for each class V injection well shall be no less than ¼ mile. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985;

amended May 1, 1986; amended May 1, 1987; amended March 21, 1994.)

28-46-33. Mechanical integrity testing.

(a) A mechanical integrity test consisting of a pressure test with a liquid to evaluate the absence of a significant leak in the casing, tubing or packer and a test to determine the absence of significant fluid movement through vertical channels adjacent to the wellbore shall be required of each class I and class III permittee on each injection well at least once every five years.

(1) For class I hazardous waste injection wells, the mechanical integrity shall be demonstrated by the permittee by:

(A) conducting a pressure test with a liquid of the casing, tubing and packer at least annually and whenever there has been a well workover;

(B) conducting a test of the bottom-hole cement by use of an approved radioactive survey at least annually;

(C) conducting a temperature, noise or oxygen activation log to test for movement of fluid along the borehole at least once every five years; and

(D) conducting a casing inspection log at least once every five years.

(2) The test for class I non-hazardous waste injection wells shall be conducted in accordance with 40 CFR 146.8, as in effect on April 1, 1993.

(3) The test for class III injection wells shall be conducted in accordance with 40 CFR 146.8, as in effect on April 1, 1993, except the casing shall be pressure tested by the use of a mechanical packer or retrievable plug; and the test for class I hazardous waste injection wells shall be conducted in accordance with 40 CFR 146.8 and 40 CFR 146.68(d) as in effect on April 1, 1993.

(b) The permittee shall be notified at least 30 days in advance by the secretary that a mechanical integrity test must be performed, or a permittee may notify the secretary that a voluntary mechanical integrity test will be performed at least 14 days in advance of the test.

(c) The permittee shall be required to cease injection operations immediately and to conduct a mechanical integrity test approved by the secretary if the secretary believes that, due to an apparent problem, the continued use of an injection well constitutes a threat to human health or to waters of the state. Injection operations shall not be resumed until:

(1) the test has been conducted;

(2) it has been demonstrated to the satisfaction of the secretary that the well has mechanical integrity; and

(3) authorization to use the well has been given by the secretary.

(d) A qualified state inspector shall be provided by the secretary to witness all of the pressure mechanical integrity tests performed.

(e) The permittee shall submit results of all mechanical integrity tests to the secretary, in writing, within 30 days after the test has been conducted.

(f) 40 CFR 144.51(p), as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-34. Plugging and abandonment.

40 CFR 144.51(n); 40 CFR 144.52(a)(6), 40 CFR 146.10, 40 CFR 146.71, 40 CFR 146.72 and 40 CFR 146.73, as in effect on April 1, 1993, are adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-35. State inspection and right of entry. (a) Qualified state inspectors to inspect and monitor injection well facilities shall be provided by the secretary.

(b) Duly authorized representatives of the secretary shall have access to injection facilities for all activities required by these regulations. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 65-170b; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-36. Waiver of requirements by secretary.

40 CFR 144.16, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-37. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; revoked March 21, 1994.)

28-46-38. **Inventory and assessment of class V injection wells.** 40 CFR 146.52, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-39. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; revoked March 21, 1994.)

28-46-40. **Exempted aquifers.** (a) An aquifer may be designated by the secretary as exempt from protection as an underground source of drinking water. Criteria for exemption may include whether an aquifer:

(1) contains water with more than 10,000 milligrams per liter of total dissolved solid;

(2) produces mineral, hydrocarbon or geothermal energy; or

(3) is situated at a depth which makes the recovery of water economically impractical.

(b) These designations shall be first submitted to and approved by the administrator of the United States environmental protection agency. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-41. **Sharing of information.** 40 CFR 145.14, as in effect on April 1, 1993, is adopted by reference. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-42. **Exclusion of oil and gas related wells.** The following class II injection wells shall be exempted from the provisions in article 46 of these regulations:

(a) any well which injects fluids brought to the surface in connection with the conventional production of oil or gas;

(b) any well which injects wastewaters from gas plants which are an integral part of production operations, unless those waters are classified hazardous at the time of injection; or

(c) any well which injects fluids to enhance the recovery of oil or natural gas. (Authorized by and

implementing K.S.A. 65-171d; effective, T-83-7, April 29, 1982; effective May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-43. **Analyses to be performed by laboratory certified by the secretary.** If a sample analysis is required by the secretary for the purposes of any permit or application for a permit under these regulations, the analysis shall be performed by a laboratory which has been certified and approved by the secretary for conducting such sample analysis. (Authorized by and implementing K.S.A. 65-171d; effective March 21, 1994.)

28-46-44. **Sampling and analysis techniques.** (a) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136, as in effect on April 1, 1993, which is adopted by reference.

(b) Where 40 CFR part 136 does not contain sampling and analytical techniques for the parameter in question, or where it is determined by the secretary that the part 136 sampling and analytical techniques are inappropriate for the parameter in question, sampling and analysis shall be performed using validated analytical methods or other appropriate sampling and analytical procedures approved by the secretary.

(c) Alternate sampling and analytical techniques suggested by the permittee or other persons will be considered by the secretary. (Authorized by and implementing K.S.A. 65-171d; effective March 21, 1994.)

Article 47.—USE OF OIL AND GAS FIELD SALT WATER IN ROAD CONSTRUCTION AND MAINTENANCE PROJECTS

28-47-1. **Scope.** This article regulates the spreading of salt water, originating from the production of oil and gas, in road construction and maintenance projects. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-2. **Definitions.** (a) "Person" means any state, county, township or municipal governing body, and any individual, firm, corporation, partnership, or other association of persons.

(b) "Road" means any highway, county road, township road, or oil or gas company lease road, or any private road under jurisdiction of the applicant.